

ORDINANCE NO. 3922

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING EDMONDS CITY CODE CHAPTER 4.90 RELATED TO LICENSING AND PERMITTING REQUIREMENTS FOR PUBLIC MARKETS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Edmonds historically only allows seasonal farmers markets to operate during the period between May and September, inclusive; and

WHEREAS, there has been expressed interest in having public markets operating any time of the year; and

WHEREAS, the City would like to update its licensing requirements for such public markets; and

WHEREAS, the Edmonds City Code Chapter 4.90 does not expressly include public market as a use subject to permitting and licensing requirements of this chapter; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Chapter 4.90 of the Edmonds City Code, entitled “Community Oriented Open Air Markets,” is hereby retitled “Public Markets” and amended to read as follows (new text is shown in underline; deleted text is shown in ~~strikethrough~~):

Chapter 4.90 ~~COMMUNITY ORIENTED PUBLIC~~ ~~OPEN AIR MARKETS~~

Sections:

4.90.010 Definitions.

4.90.020 Activities requiring a license.

4.90.025 Exemptions.

4.90.030 Prohibited activities.

4.90.040 Licensees limited to nonprofit community oriented organizations.

4.90.050 Sponsor licensee – Business license required when.
~~4.90.060 Premises – Zoning and land use requirements.~~
4.90.070 License fee.
4.90.080 Term of license.
4.90.090 Application for license.
4.90.100 Records.
4.90.110 Administration.
4.90.120 Violation of the provisions of the chapter – Civil infraction.

4.90.010 Definitions.

A. ~~“Community-oriented open-air~~Public market” shall mean a site or location where new or used items are sold by two or more individual vendors, with each vendor operating independently from the other vendors and subleasing booths, stalls or tables for the purpose of placing before the public for sale on a temporary basis used goods, new wares or merchandiseis defined in ECDC 21.80.103.

~~The activities of the market shall be limited to daylight hours on Saturday and Sunday of each week during the months of July, August and September of each year. No other community-oriented open air market activities shall be licensed under the provisions of this chapter nor eligible as a permitted use under the provisions of ECDC 16.60.020(D) and 16.15.010 (A).~~

B. “Vendor” shall mean any person, association, group, partnership, corporation or firm who exhibits goods or services in a ~~community-oriented open-air~~public market provided through a duly licensed sponsor, for the purpose of selling, bartering, trading, exchanging for advertising such goods or services for sale.

C. “Sponsor” shall mean any person, association, group, partnership, corporation or firm engaged in the business of providing to any vendor, directly or indirectly, sale spaces, areas or structures within a site licensed for a ~~community-oriented open-air~~public market for the purpose of using such location during the term of the market's license. During the study phase in which this ordinance is effective, the promoter shall be a nonprofit organization as described in ECC 4.90.040.

D. ~~“Sales area” shall mean any stall, booth, stand, space, section, unit or specified floor area within a licensed community-oriented open air market location where goods or services are offered or displayed by a vendor for the purpose of sale, trade, barter, exchange or advertisement.~~

E. ~~“Rental space” shall mean all space at the licensed business location to be used for the undertaking being licensed except for that space specifically set aside and designated for vehicle parking, fire lanes and refuse collection areas. [Ord. 3032 § 1, 1995; Ord. 3015 § 3, 1995].~~

4.90.020 Activities requiring a license.

It shall be unlawful for any person to own, use or permit property to be used as a public market until the market and site have been licensed under this chapter. No person shall then sell or offer for sale products at any location in conjunction with a market activity until sponsor has been duly licensed and each vendor

submitted to the city. Nothing in this chapter shall be deemed to authorize activities to be conducted in accordance with the market's activities unless appropriately licensed as required under another provision of this code; provided, however, that business license requirements are limited as provided in ECC 4.90.050. For example, pawnbrokers and dealers of secondhand goods shall not conduct activities in accordance with a market until duly licensed in accordance with the provisions of Chapter 4.75 ECC. Licensing under the provision of this chapter shall be an alternative to special event licensing under the authority of the city council or a license for a public amusement as required under Chapter 4.32 ECC.

A. It shall be unlawful for any person to sell or offer for sale goods at a ~~community-oriented open-air~~public market unless such person has been listed on the application fee of the licensee and paid the processing requirement specified herein.

B. All structures employed on the site shall comply with the requirements of the State Building Code, including but not limited to the Uniform Building and Fire Code elements..

C. The activities of the public market shall be limited to daylight hours on Saturday and Sunday of each week within public rights of way, but extended hours are allowed up to 10 p.m. for any day of the week if the market takes place outdoors on private property or public property not located within public rights of way. Operational hours related to activities of the public market are not limited when the market takes place within a fully enclosed building.

4.90.025 Exemptions.

The provisions of this chapter shall not be applied to:

A. Require any farmer, gardener or other person who sells any fruits, vegetables or other farm produce or edibles produced by such person within Snohomish County, Washington and exempt pursuant to RCW 36.71.090 from paying any fee or application. Such persons are exempt from the licensing and fee requirements of ECC 4.90.080 but may be listed by the licensee as a vendor when sales are conducted in conjunction with a ~~community-oriented open-air~~public market.

~~B. Garage sales conducted by an individual on his or her private property and not exceeding 12 days or 12 times per year are exempt from the provisions of this ordinance. [Ord. 3015 § 3, 1995].~~

4.90.030 Prohibited activities.

It shall be unlawful for any person to own, use or permit property to be used for any of the following prohibited acts in conjunction with the market and unlawful for any person to conduct any of the following acts in conjunction with the public market:

A. The sale of any raw meat, fish or poultry product unless approved in writing for inclusion by the Snohomish County Health District;

B. The sale of any beverage or foodstuff unless appropriately licensed from the Snohomish County Health District; and

C. No sound amplification system shall be used in conjunction with the market which produces noise which is audible beyond the boundaries of the area designated in the application.

4.90.040 Licenses limited to nonprofit community oriented organizations.

~~This temporary license and use provision has been established by the Edmonds city council in order to study the effects of open air markets on the community and determine appropriate limits and conditions for license issuance. Based upon limited right of way and other available area and the 1994 working test,~~ licenses to conduct ~~a community oriented open air~~public markets shall be issued only to nonprofit community organizations. Nonprofit community organizations are hereby defined to mean: bona fide nonprofit religious, charitable, benevolent, fraternal or social organizations recognized by the United States Internal Revenue Service as a charitable institution exempt from taxation under Section 503C of the Internal Revenue Code and whose principal offices or meeting place is located within the city of Edmonds.

4.90.050 Sponsor licensee – Business license required when.

The issuance of a ~~community oriented open air~~public market license to the sponsor is intended to serve as a master license authorizing limited business activities ~~during the hours of daylight on Saturday and Sunday during July, August and September.~~ Vendors at the markets renting or leasing space from the master licensee are not required to have a city business license unless they engage in other business activities subject to licensing under the provisions of this title. By way of illustration and not limitation, the following examples are offered:

A. Pawnbrokers and secondhand dealers are required to have licenses as provided by Chapter 4.75 ECC.

B. A business license shall be obtained by any vendor who conducts ~~covered business~~ activities beyond the premises licensed as a ~~community oriented open air~~public market and/or outside of the time for which the license is issued. For example, a business operating from a booth on the premises licensed as a ~~community oriented open air~~public market during the days of approved market operation shall not require a business license to conduct such activities. If, however, the vendor conducts other business activities subject to the provisions of Chapter 4.72 ECC, the person conducting such activities shall be duly licensed in accordance with the provisions of that chapter.

4.90.060 Premises – Zoning and land use requirements.

~~A premises licensed as a community oriented open air market shall be considered a temporary use for the purposes of ECDC 16.50.010(A)(7) and ECDC 16.60.020 Uses (D)(1). As a temporary activity, the city council finds that any signs or structures used in accordance with the market do not require review or approval by the architectural design board; provided, however, that when a location is utilized for a business use other than an community oriented open air market, the location of the market shall not decrease the required available parking for the underlying permanent business use below the standards established by Chapter 17.50 ECDC. [Ord. 3015 § 3, 1995].~~

4.90.070 License fee.

An applicant for a license to operate a ~~community-oriented open-air~~public market shall pay a ~~\$5~~100.00 fee. This fee is based upon the cost to the city of reviewing and processing the application and shall be submitted in conjunction with the application. Each participating vendor shall pay \$5.00 for its participation in the ~~community-oriented open-air~~public market during each calendar year. No application shall be deemed complete until all fees have been paid.

4.90.080 Term of license.

Each license issued under this chapter shall be limited to the number of days approved for operation for the ~~community-oriented open-air~~public market for which the license was issued. ~~Licenses shall be valid only during daylight hours in July, August and September. No license shall be effective beyond September 30th of each year.~~

4.90.090 Application for license.

Each applicant for a license to operate a ~~community-oriented open-air~~public market shall file an application with the city clerk accompanied by the license fee provided for in ECC 4.90.070. The application shall be in writing and submitted on a form prepared by the city clerk and signed by the applicant. The application shall give the applicant's nonprofit organization's business address and principal business location, a copy of documents indicating its charitable nonprofit status as well as the residence address and phone number of the applicant's agent. In addition to such other information as the city clerk shall require, the application shall be accompanied by:

A. A plot plan showing the location of any outdoor facilities or activities. Adequate parking and ingress and egress shall be maintained during the course of this temporary special event. Adequate precautions shall be put in place to prevent vehicular access to pedestrian pathways within the confines of the activity. Applications to utilize a site or lot already occupied by an existing business shall show on the plot plan the location of all parking required to be provided under the provisions of Chapter 17.50 ECDC for such business.

B. A list of each and every vendor participating or anticipated to participate in the market for which the license is sought shall be submitted to the city clerk. The listing shall include the vendor's name, address and business phone number together with a general description of goods and/or services offered by each vendor. Any changes in the list of vendors shall be provided to the city clerk in a minimum of three business days prior to the date of the proposed change (i.e., the first date at which the new vendor will participate in the market).

C. Provisions for event management and garbage control shall be addressed in a management plan. All tables, tents, booths, signs and other structures associated with the market shall be removed from public rights of way at the end of each day; provided, however, that approved outdoor storage may be provided between the close of business Saturday night and the commencement of business on Sunday morning the day a public market is held and commencement of business the following morning on public land not located within public rights of way or on private property.

D. Garbage receptacles shall be strategically located and have sufficient capacity to accommodate the vendors and estimated members of the public in attendance. In addition the area shall be kept clean of rubbish, garbage, junk, waste paper, plastic, styrofoam cups, sacks, food and other waste. The City of Edmonds encourages the use of recycling receptacles and products whenever possible. The license holder shall be responsible to keep the area clean. The area to be kept clean shall include the area immediately surrounding sidewalks and public streets.

DE. Temporary signage announcing the event shall be approved on the site in the licensing process in accordance with the requirements of ECDC 20.60.080.

EE. The fire marshal shall designate appropriate fire lanes through the licensed area on the plot plan. These fire lanes are intended for pedestrian use and shall be kept free of structures, debris or other blockage. Failure to maintain appropriate fire lanes shall be cause for immediate revocation of the license. The police chief may, in his or her sole discretion, require that security personnel be provided by the ~~community-oriented open-air~~public market during times and in a number designated by the police.

4.90.100 Records.

The named licensee sponsor of the ~~community-oriented open-air~~public market shall maintain a record of all vendors participating in the event. Such record shall be available for inspection by the city clerk or a designated agent during normal business hours of city offices (that is 8:00 a.m. to ~~54:030~~ p.m. Monday through Friday, excluding legal holidays).

4.90.110 Administration.

The license for a ~~community-oriented open-air~~public market may be revoked at the discretion of the mayor or designee at any time for failure to comply with the provisions of this chapter or for violation of any other provision of the city code. Notice of revocation shall be served personally 24 hours prior to the date such revocation shall be effective. The licensee may request a hearing before the Edmonds eCity eCouncil; provided, however, that in the interim no activity shall be conducted until such time as the Edmonds eCity eCouncil has heard the appeal of the licensee from the original determination of the mayor or designee.

4.90.120 Violation of the provisions of the chapter – Civil infraction.

Any person violating any of the requirements of this chapter shall be guilty of a civil infraction and shall be punishable by a fine of up to \$1,000. ~~Each day of violation shall be a separate offense.~~

Effective Date. This ordinance being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:


MAYOR DAVID O. EARLING

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JEFF TARADAY

| | |
|-----------------------------|------------|
| FILED WITH THE CITY CLERK: | 05-17-2013 |
| PASSED BY THE CITY COUNCIL: | 05-21-2013 |
| PUBLISHED: | 05-26-2013 |
| EFFECTIVE DATE: | 05-31-2013 |
| ORDINANCE NO. <u>3922</u> | |

SUMMARY OF ORDINANCE NO. 3922

of the City of Edmonds, Washington

On the 21st day of May, 2013, the City Council of the City of Edmonds passed Ordinance No. 3922. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING EDMONDS CITY CODE CHAPTER 4.90 RELATED TO LICENSING AND PERMITTING REQUIREMENTS FOR PUBLIC MARKETS, AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 22nd day of May, 2013.


CITY CLERK, SANDRA S. CHASE

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.

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The full text of this Ordinance will be mailed upon request.
DATED this 22nd day of May, 2013.

Published: May 26, 2013.

CITY CLERK, SANDRA S. CHASE

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3922

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

May 26, 2013

and that said newspaper was regularly distributed to its subscribers during all of said period.

Karen E. Ziemer

Principal Clerk

Subscribed and sworn to before me this

27th

day of May, 2013

Diana L. Hendrix

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

